

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 21-cr-0005-bhl

JOHN D WHELAN (1)

Defendants.

**DEFENDANT JOHN D WHELAN'S UNOPPOSED MOTION TO
CONTINUE TRIAL DATE AND EXTEND PRETRIAL DEADLINES**

NOW COMES Defendant JOHN D WHELAN, by and through his undersigned counsel, and respectfully moves this Honorable Court to grant his Unopposed Motion to Continue Trial Date and Extend Pretrial Deadlines. In addition, should the continuance be granted, Dr. Whelan requests an extension of at least ninety (90) days. In addition, should the continuance be granted, Dr. Whelan requests a status conference to set a new trial date and pretrial deadlines. Dr. Whelan brings the instant motion which should be granted for the following reasons:

1. On August 18, 2021, this Honorable Court entered a Pretrial Order (Docket No. 28), which provided the following pretrial deadlines:

- a. Pretrial Report: November 24, 2021
- b. Final Pretrial Conference: December 2, 2021, at 10:00 a.m.
- c. Trial: December 13, 2021

2. Importantly, the undersigned counsel was only recently retained by Dr. Whelan. As a result, counsel has only recently received Dr. Whelan's file and discovery to-date from attorney Mike Penkwitz, and the same is being uploaded for review.

3. In addition, the Government informed us on September 27, 2021, that a new discovery production had been sent to our office that day. The undersigned counsel recently received the additional discovery and the same is being uploaded for review.

4. Counsel for Dr. Whelan will require additional time to adequately review the discovery in this matter for purposes of defending the charges against Dr. Whelan at trial.

5. The Speedy Trial Act mandates a trial date be set by the court at the earliest practicable time after a defendant is charged and provides that the trial date should begin within seventy (70) days of the indictment filing or the defendant's first appearance, whichever occurs last. 18 U.S.C. § 3161(a) and 18 U.S.C. § 3161(c)(1).

6. However, a period of delay due to a motion for a continuance is excluded in calculating the time in which trial must commence if the court places on the record the reasons "the ends of justice are served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." §3161(h)(7)(A).

7. Here, a failure to grant a continuance in this case would deny counsel the ability to dutifully represent Dr. Whelan in the instant matter and would deny him the reasonable time necessary for effective preparation leading up to trial. 18 U.S.C. § 3161(h)(7)(B)(iv).

8. As such, the ends of justice are best served in this case through a brief continuance rather than a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

9. On September 29, 2021, the undersigned counsel contacted counsel for the Government and co-defendant Tina Montezon to request whether counsel opposed the undersigned's request to continue trial and pretrial deadlines. Importantly, counsel for the Government and co-defendant do not oppose the undersigned's request for a continuance.

10. Finally, Dr. Whelan consents to having his trial scheduled for a later date and hereby waives his rights under the Speedy Trial Act. 18 U.S.C. § 3161 et seq., in the interest of the sought continuance.

WHEREFORE Defendant, JOHN D WHELAN, by and through his undersigned counsel, respectfully requests that this Honorable Court GRANT his instant Motion to Continue Trial Date and Pretrial Deadlines and respectfully requests a continuance of at least ninety (90) days from the current trial date, and if this motion is granted, that a status conference be scheduled to set a new trial date and pretrial deadlines.

Respectfully Submitted,
CHAPMAN LAW GROUP

Dated: October 11, 2021

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